

CALIFORNIA COASTAL COMMISSION

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Thu 14a

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-049

Applicant: 22nd District Agricultural
Association

Agent: Patricia A. Butler

Description: Demolition of three existing exhibit hall/barns known as Barn X (18,720 sq. ft.), Barn Y (16,770 sq. ft.), and Poultry Barn (20,920 sq. ft.) at the Fairgrounds and replacement with two new exhibit hall/barns known as Multi-purpose Barn (41,133 sq.ft.) and Livestock Barn (41,203 sq.ft.), that will be located in the same area as the three removed barns and carry out the same functions plus accommodating approximately eight additional off-season special events. The structures will be 65 and 60 feet high, respectively. The proposal also includes that events in the new exhibit barns will not use the South Overflow Parking Lot for parking.

Zoning Fairgrounds/Racetrack
Plan Designation Fairgrounds/Racetrack

Site: 2260 Jimmy Durante Boulevard, Del Mar, San Diego County.
APN 298-271-03

Substantive File Documents: 1985 Master Plan Update and draft Public Works Plan

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed exhibit hall/barn replacement, which is part of the overall upgrading of Fairgrounds amenities. The proposed structures will be located within the 100-year floodplain. However, the existing exhibit hall/barn structures to be replaced have been in

existence in their current location within the Del Mar Fairgrounds since prior to the Coastal Act. Any concern that this proposal might represent an increase in intensity of use of the Fairgrounds is alleviated by the applicant's proposal that new events will not use the South Overflow Parking Lot for parking. A special condition is recommended advising the applicant that no channelization or substantial alteration of a river or stream shall ever be constructed to protect the replacement barns in the event that they become threatened with damage or destruction from flooding or other natural hazards in the future. Other recommended conditions address construction in hazardous areas and visual concerns.

Due to Permit Streamlining Act requirements, the Commission must act on this matter at the March 2005 Commission hearing.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-04-049 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. No Future Flood Protection. No berms, walls, or any other form of protection against flooding shall ever be constructed for the purpose of protecting the development approved pursuant to Coastal Development Permit No. 6-04-049 from flooding. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such channelization or substantial alteration of a river or stream for the purpose of protecting the permitted development that may exist under Public Resources Code Section 30236.

2. Assumption of Risk, Waiver of Liability and Indemnity Agreement

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

3. Exterior Treatment. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and approval in writing, a color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed structures. The structures shall incorporate natural earthen tones, including shades of green, brown and grey, that will, in no case, be lighter or brighter than the existing grandstand structure adjacent to the west.

The permittee shall undertake the development in accordance with the approved color board. Any proposed changes to the approved colors shall be reported to the Executive Director. No changes to the colors shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing demolition of three existing exhibit hall/barns known as Barn X (18,720 sq. ft.), Barn Y (16,770 sq. ft.), and the Poultry Barn (20,920 sq. ft.), located just east of the existing grandstand structure at the Fairgrounds. They then propose replacement with two new exhibit hall/barns known as the Multi-Purpose Barn (40,084 sq.ft.) and Livestock Barn (38,339 sq.ft.), that will be located in the same area as the three removed exhibit hall/barns. The proposal includes the import of 15,000 cu.yds. of fill to raise the buildings to a bottom elevation equal to that of surrounding, newer structures. The applicant considers the entire 3.76 area of the existing exhibit hall/barns to be the specific project site within the Fairgrounds as a whole. In addition to the existing exhibit hall/barns, this area includes a significant amount of space devoted to outdoor animal exhibits, some, or all, of which will be moved indoors with construction of the proposed development. Wash racks are one of the features to be brought indoors through project implementation, where they will be connected to the existing sanitary system. Outdoor areas remaining between the proposed replacement structures are anticipated to accommodate several horse walkers, show rings, and other accessories needed for livestock events and equestrian training, although these items are not formally included with the subject permit request.

The new exhibit hall/barns will carry out the same functions as the existing exhibit hall/barns; that is, livestock exhibition during the annual Fair and stabling of horses during the annual race meet. In addition, the new exhibit hall/barns, particularly the Multi-Purpose Barn, will accommodate approximately eight additional off-season special events. The three existing exhibit hall/barns are all long, low rectangular structures, whereas the new exhibit hall/barns will be wider and, in the case of the Multi-Purpose Barn, more square than rectangular. The Multi-Purpose Barn will also have a cement floor, whereas the Livestock Barn will continue to have a dirt surface. The configuration and amenities of the proposed Multi-Purpose Barn are more adaptable to consumer shows, and the stalls in this building will be portable and removed during such events.

The three existing exhibit hall/barns are approximately 20 feet in height. The replacement structures are proposed to be 65 and 60 feet high, respectively, both to improve ventilation and to mimic the facades of other newer structures on the site.

To address concerns raised with use of the South Overflow Lot (SOL) for parking outside of the fair and racing seasons, the applicant has proposed that new events in the replacement exhibit hall/barns will not use the SOL for parking.

The project site is geographically within the City of Del Mar, which has an effectively certified LCP and issues its own coastal development permits. However, the Fairgrounds represents an area of deferred certification. Moreover, it was principally built on filled tidelands. Thus, the site is within the Coastal Commission's area of original jurisdiction, with Chapter 3 of the Coastal Act being the legal standard of review for permits, and the Del Mar LCP being used for guidance.

2. Hydrology/Flood Hazards. The following Coastal Act policies are most applicable to the proposed development, and state in part:

Section 30236

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development

Section 30253

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. ...

The Del Mar Fairgrounds is located within the 100-year floodplain of the San Dieguito River, and is thus subject to flooding during storm events. However, a large number of permanent and temporary structures already exist on the site, many of them pre-dating the Coastal Act. In past actions, the Commission has found that the placement of fill or permanent structures in a floodplain significantly alters flood flows and therefore is inconsistent with Coastal Act section 30236. On the other hand, structures that can accommodate periodic inundation without being damaged do not cause flood waters to be redirected and therefore can be found consistent with 30236. The entire Fairgrounds

complex is comprised of structures, which are, and will continue to be, able to withstand periodic inundation occasionally during severe rain events.

Any additional fill or net increases in building footprints could result in changes in the hydrology of the adjacent San Dieguito River and Stevens Creek. Modifications to the current flooding patterns, in which a large portion of the 100-year flood waters are contained on the Fairgrounds property, could result in increased flood hazards to existing up- and downstream developments, which could, in turn, lead to proposals for further channelization of the river. In this particular case, the proposed improvements are not adding new structures to the floodplain; they are replacing and expanding existing facilities with larger structures in the same general location. Thus, there will be a small increase in floodplain coverage, but still little potential for significant adverse affects to flood flows as the new buildings are designed to be “flow-through,” with one or more doors on all four sides of the structures.

The applicant is proposing, however, to import 15,000 cu.yds. of fill material to raise the replacement structures above existing grade to be roughly equivalent with the elevation of the adjacent activities center, which is elevation 10.29. The proposed multi-purpose barn will be at elevation 9.80, and the proposed livestock barn at elevation 9.00. The primary purpose for this is to direct stormwater away from the buildings and into the on-site drainage facilities. A secondary reason for the fill is to better accommodate plumbing and utility improvements. This amount of fill will not result in significant hydrological changes as it is contained entirely within the footprint of each building, which itself represents “fill” in the floodplain. Historically, such “fill” has been allowed within the main, developed, partially paved area of the Fairgrounds west of Jimmy Durante Boulevard, as much of this development predates the Coastal Act. Most of the permits the Commission has acted on are for the replacement of various structures that do not meet today’s building standards for earthquake safety and structural design, as well as not meeting human and animal health and safety needs.

In addition, the Fairgrounds is primarily an agricultural and equestrian facility, uses generally acceptable within floodplains as long as there are no permanent structures that block flood flows. Although there are many permanent structures within this facility, they are designed to be compatible with periodic inundation and allow the passage of flood waters, such that there is no redirection of flood flows, nor damages to downstream lands. Because of their design and function, the structures at the Fairgrounds can sustain extended periods of time in a flooded state. Therefore, these structures can be found consistent with Section 30236 of the Coastal Act as long as they are allowed to flood, as designed. If steps were taken to prevent flooding, such as berms, walls, or other protective devices there would be alteration of the flood flows, which would be inconsistent with 30236.

Thus, an issue is raised over the potential that, in the future, the applicant might propose some form of channelization to protect the replacement buildings from flooding. Of particular concern is the potential that such protection would take the form of further channelizing Stevens Creek or the San Dieguito River, both of which flood portions of

the Fairgrounds during major storm events. Channelization can include a range of different actions, such as redirection of flow, realignment of channel banks, filling or dredging, hardening of channel banks and/or bottom with riprap or concrete, even planting or removal of vegetation in some circumstances. Special Condition #1 advises the applicant that any rights to construct some form of channelization or substantial alteration of a river or stream for the purpose of protecting the replacement barns that may exist under Public Resources Code Section 30236 are waived. In addition, Special Condition #2 requires the applicant to accept full liability for the construction of development in a hazardous location.

In summary, the Commission finds that the replacement of these existing facilities with new, somewhat larger facilities will not result in any significant changes to current flood flows across the site. The amount of impermeable surfaces will not significantly increase, and the addition in height will not be a significant impediment to surface flows, as the barns are designed to allow the passage of flood-waters. Also, the new barns are designed to improve drainage over what now exists and to be compatible with periodic flooding. Special Conditions address the issues of future shoreline protective devices and the waiving of any liability on the part of the Commission for future damages. Therefore, the Commission finds the proposed development, as conditioned, consistent with the cited Coastal Act policies.

3. Wetlands/Parking/Public Access/Historic and Future Uses. The following Coastal Act policies are most pertinent to these issues, and state in part:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. ...

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233.

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating

facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems. ...

Section 30240

... (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by ... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, ...

Section 30604(c)

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The fairgrounds is located near the mouth of the San Dieguito River and Lagoon, west of I-5, but east of Camino del Mar (Old Highway 101) and the railroad tracks. It is between

the river and Via de la Valle, which is the first public east-west road north of the river; I-5 is currently the first north-south public road east of the site. Thus, the entire fairgrounds complex is located between the sea and first public roadway, where maintaining shoreline public access to the river/lagoon and west to the municipal beaches is of greatest concern. As the property owner is another state agency, the property is in public ownership, and, for the most part, the public can freely access various portions of the grounds, including the riverfront, particularly when no formal events are taking place. In addition, plans for portions of the Coast to Crest Trail to be sited on Fairgrounds property will further enhance public access in this area.

Prior to the Coastal Act, the Fairgrounds hosted two events each year: the annual fair lasting about two weeks at that time, but expanded now to 21 days; and the thoroughbred horse racing meet, which runs for 43 days every summer. The now separate National Horse Show was part of the fair at that time. Historically, the East and South Overflow Parking Lots (EOL and SOL, respectively) and the Golf Driving Range (GDR) were required for overflow parking during the fair and races, but remained unused the remainder of the year. Virtually the entire Fairgrounds property was created by filling tidelands back in the 1930's. Although much of the site is now developed, there are several areas still containing wetland resources, including the EOL, SOL, and most of the GDR. In addition, these areas are within the 100-year floodplain of the adjacent San Dieguito River and experience periodic inundation during average winter rainy seasons. . When only used during the fair and races, the wetlands are degraded but still provide some wetland habitat function outside of the fair and race season, when wetland vegetation returns, and it is used for loafing, resting and feeding by shorebirds and migratory species. Depending on the specific species, some breeding may also occur, although most species breeding seasons continue into the summer months when the lots have historically been used for parking.

Of great concern to the Commission is the potential that parking associated with events in the proposed barns will exceed the capacity of the paved, main parking lot and result in use of the SOL. Such use would be inconsistent with Section 30233, which prohibits fill of wetlands and section 30231 which requires that the biological productivity and quality of wetlands be maintained and if feasible restored (if necessary). The applicant states that only eight additional events per year are anticipated to use these specific facilities, and that the types of events, in and of themselves, would not draw enough people to require use of overflow parking. However, a simple look at the Fairgrounds calendar of events demonstrates that most likely any events in the new barns will be held concurrently with two or three events in other existing facilities. Even if none of the events individually triggered a need to use the SOL, cumulatively, several events held at the same time could reasonably require use of one or more overflow lots.

The applicant's 2003 Traffic and Parking Monitoring Report indicates that any events greater than 5,000 in attendance could trigger a need for the overflow lots. This depends significantly on where on the property the event is occurring, since many paved areas can host events, thus usurping their use for parking, and still be available for parking at other times during other events. Conversely, the type of event can also make a huge difference.

The events calendar indicates that many interim events drawing as many as 10,000 people, or even more, did not require use of the overflow lots, whereas smaller events sometimes do. In great part, this varies between events where everyone comes and goes at the same time and events where visitors come and go throughout the day.

A past proposal to construct a training track on portions of the SOL was withdrawn prior to Commission action. Since this property is in the floodplain and contains biological resources, the Commission has typically not endorsed such proposals, preferring to see the land remain in its unimproved state. Thus, although the applicant asserts that the EOL is used by Fairgrounds patrons and employees throughout the year, and the SOL and GDR used for storage and other activities from time to time, the Commission has only acknowledged and endorsed their pre-Coastal Act use during the Fair and racing season, and authorized their short-term use (about ten days a year) by permit for the Grand Prix, which was held at the Fairgrounds each fall for five consecutive years in the late 1980's. In addition, the conditional use permit was obtained for use of the GDR as a golf driving range prior to enactment of the Coastal Act; this use has continued to the present.

Based on the 1993 ACOE delineation, the EOL contains approximately seven acres of wetlands, the approximately sixteen-acre SOL is entirely wetlands, and the fifteen-acre GDR is mostly wetlands (minimum 12+ acres of wetlands). However, the amount of wetlands actually present on the overflow parking lots has been the subject of some debate over the years, since the 1993 delineation was conducted using the federal protocol. The applicant contested this delineation and has since conducted its own wetland delineations. The applicant's delineation has never been accepted by the ACOE or other resource agencies. The applicant states it used the federal protocol to conduct past surveys; that is, all three wetland indicators (hydric soils, appropriate hydrology and wetland vegetation) must be present before a site is delineated as a wetland. Although both the ACOE and the applicant maintain they used the federal protocol, the discrepancy between the delineation by the ACOE and that conducted by the applicant has not been explained.

However, both the Coastal Commission and the California Department of Fish and Game (CDFG) define wetland as lands that contain any one of the three indicators. The Coastal Act definition of "wetland" states:

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

A new delineation is anticipated as part of the applicant's forthcoming update of their Master Plan, but this information is not yet available. In the absence of a formal delineation according to California protocol, and in view of the facts presented above, including that unpermitted development may have caused loss of wetlands or at least significant deterioration, the Commission finds it appropriate to take a conservative

approach in evaluating the consistency of the proposed project with Chapter 3 policies of the Coastal Act.

Historically, the EOL, SOL and GDR have been used by the applicant as a public parking reservoir during the annual fair and thoroughbred race meet. Because use of the lots for parking for these two main yearly events predated the Coastal Act, the Commission has not challenged the continued use of this area for overflow parking during these events, even though major portions of these three areas are wetlands.

Over time, however, since the Coastal Act was made law, the use of the Fairgrounds outside the fair and races has expanded significantly, and it now hosts multiple interim events nearly every weekend all year long. The applicant asserts that occasionally the SOL is used by patrons during these smaller events, especially for the annual Cinco de Mayo celebration, when attendance is high. In addition, the SOL has been used for periodic storage of trucks and materials. None of these uses have been authorized by the Coastal Commission, although they meet the Coastal Act definition of development and thus require permits.

Since the Commission approved rebuilding of the grandstand in 1991, the applicant has been required to submit an annual traffic and parking monitoring report, and, in 2002 when the grandstand was further expanded, the program was modified to include submittal of a complete calendar of events for the preceding year, indicating whether or not any overflow parking areas were required for each event. The 2002 and 2003 events calendars included approximately 230 single- and multi-day events, ranging from major horse shows and home and garden exhibitions to weddings and holiday parties. The report for 2004 has not been received yet, but the Fairgrounds web-site indicates today that approximately 350 annual events are being held on the property.

As stated, the Commission has accepted the cited historic use of the EOL, SOL, and GDR for overflow parking during the fair and race meet. In addition, in past permit actions, the Commission authorized use of this area for parking during the five years the Grand Prix was held at the Fairgrounds, and allowed the installation of an at-grade paved tram track in the EOL outside ACOE delineated wetlands. The tram is used during the annual fair and thoroughbred racing season to transport Fairgrounds patrons to the entrance ticketing windows. With these two exceptions, the Commission has not reviewed or approved parking by patrons or employees or any other uses of these lots, except use of the GDR for its primary golfing purposes, which also predates the Coastal Act.

The subject application includes a statement from the applicant that use of the SOL will not be required in conjunction with the eight additional events accommodated by the proposed development. This commitment by the applicant will assure no new use of overflow parking than what currently occurs, although not all current parking has been endorsed by the Commission. Therefore, such commitment is part of the project. Any use of the SOL as parking for these 8 additional events is not authorized by this permit and would be a violation of the Coastal Act.

In summary, the Commission identified a significant biological resource concern with this project, as the new structures will accommodate more interim events than do the existing structures. Depending on the scope of events held in the proposed barns, combined with concurrent events in other parts of the Fairgrounds, the potential exists that parking needs could go beyond the capacity of the main, paved parking lot, which could ultimately result in use of the SOL for unauthorized overflow parking. However, in this particular case, the Commission accepts the applicant's commitment not to use the SOL, which is most sensitive biologically, for new events accommodated by the subject proposal. Therefore, the Commission finds that all access and resource concerns associated solely with the development approved herein are adequately addressed, and that the proposed development, as conditioned, is consistent with the cited policies of the Coastal Act.

4. Water Quality. The following Coastal Act policies are most pertinent to this issue, and state:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The applicant's existing storm drain system collects all site drainage from the developed portions of the Fairgrounds (i.e., those portions north and west of Jimmy Durante Boulevard, including the existing race track, training track, and horse arena). That drainage passes through existing grease traps in the inlets draining the main parking lot, then discharges into the river channel. This pattern will continue with roof runoff from the proposed exhibit barns, but all interior drainage from the new buildings, such as animal wastes, will be directed into the City of Del Mar sewer system for complete treatment.

In addition, the applicant has a regular program of Best Management Practices (BMPs) in use for the fairgrounds as a whole, including, but not limited to, spill containment equipment, proper hazardous materials handling and storage, erosion control and frequent inspections of equipment. BMPs specific to the proposed exhibit and livestock facilities include frequent trash removal, proper disposal of food products, and regular sweeping; the site also has a significant recycling program.

In summary, the Fairgrounds employs both a stormwater and sewer system to address site runoff and wastes. All runoff is captured and filtered prior to discharge into either the San Dieguito River or Stevens Creek. Wastes are directed into the City of Del Mar sewer system for treatment prior to ocean disposal. BMPs are employed throughout the site to prevent pollutants from entering surface waters, both during construction and operation of various facilities, including the proposed exhibit barns. Therefore, the Commission finds the development, as conditioned, consistent with the cited policies of the Coastal Act with respect to water quality concerns.

5. Visual Resources. Section 30251 of the Act addresses visual resources:

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The Fairgrounds is gradually replacing the older barns and exhibit facilities, built beginning in the 1930s, and the Commission has approved several similar proposals over the past several years. The proposed multi-use and livestock barns are designed similarly to the other recent Fairgrounds improvements, and will blend in with the existing public amenities in this portion of the property. The proposed buildings will be significantly taller than the buildings they replace and concerns were raised about possible issues with public views from outside the Fairgrounds. A visual analysis using computer-generated pictures was conducted, and it appears that there will be no blockage of ocean views, as no such views now exist from the surrounding street system and nearby overlooks. Although the new structures can be more readily seen from outside the Fairgrounds than the existing barns, they are still seen against a backdrop of even taller structures already existing on the Fairgrounds, such as the grandstand complex and satellite wagering facilities.

Regardless of the overall low visibility of the proposed structures, and their visual compatibility with the design of other recent development in the immediate area, the

Commission finds that the structures will be even less prominent if appropriately colored. Special Condition #3 requires submittal of a color board demonstrating the use of natural earthtone colors for the proposed exhibit barns. The condition also provides that, at a minimum, the new buildings, including their roofs, may not be lighter or brighter than the existing grandstand. The Commission therefore finds the proposal, as conditioned to address visual and other issues, will not adversely impact public views or scenic resources and is consistent with Section 30251 of the Act.

6. Unpermitted Development.

Unpermitted development has occurred on the subject site without the required coastal development permits including:

- Change in the intensity of use of the East and South Overflow Lots and the Golf Driving Range from their pre-Coastal Act use, including: parking during other times of the year than the Fair and Race events; temporary events year round on the East Overflow Lot; truck and trailer storage on the East and South Overflow Lots; and placement of billboards and other forms of advertising (including banners and signage attached to truck trailers) visible from Interstate-5 on the Golf Driving Range.
- Grading and placement of fill within wetlands and river channel related to the operation of an unpermitted truck driving school in the south overflow lot, as well as the operation of a truck driving school on the south overflow lot.
- Non-compliance with Special Condition One of Permit CDP 6-84-525, which required provision of 16 acres of least tern nesting habitat.

This permit application is for the demolition and replacement of the three existing exhibition barns only and does not address any of the above referenced unpermitted development on site. The Commission's enforcement division will evaluate further actions to address this matter.

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to these violations of the Coastal Act that may have occurred, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

7. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, as conditioned, such a finding can be made.

Although the site is in an area of original jurisdiction and thus not subject to the policies and regulations of Del Mar's certified LCP, it is nonetheless consistent with the Fairgrounds/Racetrack land use designation and zone of that plan. The District is currently working on a complete update of its 1985 Master Plan, but the new document has not undergone full review as yet. However, continuing the replacement of older facilities with new facilities more flexible in use remains a goal in the new plan, as it was in the 1985 Master Plan and the draft Public Works Plan. The preceding findings have demonstrated that the proposal, as conditioned, is also consistent with all applicable Chapter 3 policies of the Coastal Act.

The District is reminded that this entire facility is located in a hazardous area, where many types of development are not typically allowed. Nonetheless, the basic agricultural and equestrian activities that caused this facility to be constructed more than seventy years ago are generally consistent uses for floodplains. Therefore, the Commission finds that approval of the proposed improvements, designed primarily to carry on those functions, along with the attached special conditions addressing future channelization, parking, and view issues, will not prejudice the planning abilities of the involved local jurisdictions (Cities of Del Mar, San Diego and Solana Beach, and the River Park Joint Powers Authority), nor of the District itself.

8. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing the design and color of the proposed exhibit barns, prohibitions on use of the overflow parking lots for new events, and acknowledgement/acceptance of the hazards of floodplain construction will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized

agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.